

## HOUSE BILL NO. 604

INTRODUCED BY J. HURDLE, GUTSCHE

A BILL FOR AN ACT ENTITLED: "AN ACT MANDATING TREATMENT ~~AND PROHIBITING INITIAL PENAL~~  
~~INCARCERATION~~ UPON A CONVICTION FOR A FIRST OR SECOND NONVIOLENT FELONY OFFENSE  
WHEN ADDICTION TO ALCOHOL, DRUGS, OR GAMBLING IS FOUND TO BE A FACTOR IN THE  
COMMISSION OF THE OFFENSE; PROVIDING AN APPROPRIATION; AND AMENDING SECTIONS  
45-9-202, ~~45-9-208~~, 46-18-201, ~~46-18-222~~, 46-18-225, 53-21-603, 53-24-101, 53-24-103,  
53-24-104, 53-24-204, 53-24-206, 53-24-207, 53-24-209, 53-24-211, 53-24-301, AND 53-24-306,  
MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. ~~Short title -- definition -- purpose~~ PURPOSE -- directions to state  
agencies. (1) This section and [section 2] may be cited as the "Substance Abuse and Crime Prevention  
Act of 2001".

~~—— (2) As used in this section and [section 2], "nonviolent offense" means an offense that is not a  
crime of violence as defined in 46-18-104.~~

~~(3)~~(1) Substance abuse treatment is a proven public safety and health measure. A person who  
commits a nonviolent offense and receives drug treatment is much less likely to abuse drugs and commit  
future crimes. Community safety and health are promoted, and taxpayer dollars are saved, when persons  
convicted of nonviolent offenses involving drugs, alcohol, or gambling are provided treatment instead of  
incarceration. ~~This section and [section 2]~~ SECTION 46-18-225(3) AND THIS SECTION enhance public safety  
by reducing drug-, alcohol-, and gambling-related crime and preserve prison cells for persons who commit  
violent offenses. ~~This section and [section 2]~~ SECTION 46-18-225(3) AND THIS SECTION promote effective  
drug treatment strategies.

~~(4)~~(2) (a) The probation and parole programs in the department of corrections and the addictive  
and mental disorders programs in the department of public health and human services shall continue to  
work together to develop management plans and implement offender population plans that reflect an  
adjusted balance between:

(i) a more stable secure facilities inmate population and reservation of high-security cells for persons who commit violent offenses and those whose probation or parole has been revoked; and

(ii) the increasing use of community programs for persons who commit nonviolent FELONY offenses and who will be supervised on probation while obtaining treatment for long periods of time.

(b) This policy change must be implemented within the constraints of the current budget, transferring funds as necessary within the overall budget as allowed by sections 17-7-138 and 17-7-139.

(c) The departments involved are directed to seek additional grants and funds from federal and other sources for the expansion of community-based alternative types of probation and parole supervision of persons whose addictions are under inpatient or outpatient treatment and who are not able to pay for the treatment.

~~NEW SECTION. Section 2. Mandatory treatment upon conviction of nonviolent offense when drug, alcohol, or gambling dependence was a factor in commission of offense. (1) An offender convicted of a nonviolent offense in which a drug, alcohol, or gambling dependency is found to be a factor in the commission of the crime must be ordered to be assessed for drug, alcohol, or gambling use.~~

~~(2) If drugs, alcohol, or gambling is found to be a factor in the commission of the crime, the relevant sentence must be imposed but must be suspended, and the offender must be put on probation with the condition that the offender complete, and pay for, the treatment plan. If the offender fails to complete the conditions of the suspended sentence, the probation must be revoked and the sentence imposed.~~

~~(3) The specific duration of the primary portion of the treatment is to be determined by the state-approved treatment facility but, including followup and monitoring, is to approximate, but not exceed, the length of the suspended sentence.~~

~~(4) The conditions of the suspended sentence for the nonviolent offender must include treatment, which may be intensive outpatient treatment for an employed offender so that the offender may continue work to pay for the treatment as well as other required expenses involved in the commission of the crime, such as restitution.~~

**Section 2.** Section 45-9-202, MCA, is amended to read:

**"45-9-202. Alternative sentencing authority.** (1) ~~A~~ EXCEPT AS PROVIDED IN 46-18-225(3), A person

1 convicted of a dangerous drug felony offense under this chapter, ~~if it was not found under [section 2] that~~  
2 ~~addiction to alcohol, drugs, or gambling was a factor in the commission of the offense,~~ may, in lieu of  
3 imprisonment, be sentenced according to the alternatives provided in subsection (2).

4 (2) If the court determines, either from the face of the record or from a presentence investigation  
5 and report, that incarceration of the defendant is not appropriate, the court may, as a condition of a  
6 suspended or deferred sentence, impose one or more of the following alternatives:

7 (a) imposition of a fine not to exceed the maximum amount provided by statute for those offenses  
8 that specify a fine as part of the penalty or \$1,000 for those offenses that do not specify a fine;

9 (b) commitment to a residential drug treatment facility licensed and approved by the state for  
10 rehabilitative treatment for not less than the minimum recommended time determined necessary by the  
11 facility and not more than 1 year;

12 (c) mandatory service of not more than 2,000 hours in a community-based drug treatment or drug  
13 education program with compliance to be monitored by the probation and parole bureau of the department  
14 of corrections based upon information provided by the treatment or education program;

15 (d) if recommended by the probation and parole bureau, placement in a program of intensive  
16 probation that requires, at a minimum, that the defendant comply with all of the following conditions:

17 (i) maintain employment or full-time student status at an approved school, making progress  
18 satisfactory to the probation officer, or be involved in supervised job searches and community service work  
19 designated by the probation officer;

20 (ii) pay probation supervision fees through the clerk of the district court of not less than \$50 per  
21 month to be deposited in an account in the state special revenue fund to the credit of the department of  
22 corrections;

23 (iii) find a place to reside approved by the probation officer that may not be changed without the  
24 officer's approval;

25 (iv) remain at the residence at all times except to go to work, to attend school, or to perform  
26 community service or as otherwise specifically allowed by the probation officer;

27 (v) remain drug free and submit to drug and alcohol tests administered randomly not less than  
28 once each month by or under supervision of the probation officer;

29 (vi) perform not less than 10 hours of community service each month as approved by the probation  
30 officer, except that full-time students may be exempted or required to perform fewer hours of community

1 service;

2 (vii) enroll or make satisfactory effort to seek enrollment in an approved drug rehabilitation  
3 program; and

4 (viii) comply with any other conditions imposed by the court to meet the needs of the community  
5 and the defendant;

6 (e) suspension or revocation of the defendant's driver's license issued under Title 61, chapter 5,  
7 subject to the following terms and conditions:

8 (i) upon the first conviction of an offense under this chapter, the driver's license must be  
9 suspended for 6 months;

10 (ii) upon the second conviction, the driver's license must be revoked for 1 year;

11 (iii) upon a third or subsequent conviction, the driver's license must be revoked for 3 years."

12

13 ~~Section 4. Section 45-9-208, MCA, is amended to read:~~

14 ~~"45-9-208. Mandatory dangerous drug information course. A person who is convicted of an~~  
15 ~~offense under this chapter, if it was not found under [section 2] that addiction to alcohol, drugs, or~~  
16 ~~gambling was a factor in the commission of the offense, and who is given a sentence that makes the~~  
17 ~~offense a misdemeanor, as defined in 45-2-101, shall, in addition to any other sentence imposed, be~~  
18 ~~sentenced to complete a dangerous drug information course offered by a chemical dependency facility~~  
19 ~~approved by the department of public health and human services under 53-24-208. The sentencing judge~~  
20 ~~may include in the sentencing order a condition that the person shall undergo chemical dependency~~  
21 ~~treatment if a certified chemical dependency counselor working with the person recommends treatment."~~

22

23 **Section 3.** Section 46-18-201, MCA, is amended to read:

24 **"46-18-201. Sentences that may be imposed.** (1) (a) ~~Whenever~~ Except as provided in section 21  
25 46-18-225(3), if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty  
26 or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically  
27 provided by statute, for a period:

28 (i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

29 (ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if

30 a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony,

1 regardless of whether any other conditions are imposed.

2 (b) Except as provided in 46-18-222 ~~and [section 2]~~, imposition of sentence in a felony case may  
3 not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether  
4 or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence  
5 was suspended.

6 (2) ~~Whenever~~ Except as provided in [section 2] 46-18-225(3), if a person has been found guilty  
7 of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may  
8 suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to  
9 the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular  
10 offense.

11 (3) ~~Whenever~~ Except as provided in [section 2] 46-18-225(3), if a person has been found guilty  
12 of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may  
13 impose a sentence that may include:

14 (a) a fine as provided by law for the offense;

15 (b) payment of costs, as provided in 46-18-232, or payment of costs of court-appointed counsel  
16 as provided in 46-8-113;

17 (c) a term of incarceration at a county detention center or state prison, as provided in Title 45,  
18 for the offense;

19 (d) commitment of:

20 (i) an offender not referred to in subsection (3)(d)(ii) to the department of corrections, with a  
21 recommendation for placement in an appropriate correctional facility or program; however, all but the first  
22 5 years of the commitment to the department of corrections must be suspended; or

23 (ii) a youth transferred to district court under 41-5-206 and found guilty in the district court of an  
24 offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for  
25 placement in an appropriate correctional facility or program;

26 (e) with the approval of the facility or program, placement of the offender in a community  
27 corrections facility or program as provided in 53-30-321;

28 (f) with the approval of the prerelease center or prerelease program and confirmation by the  
29 department of corrections that space is available, placement of the offender in a prerelease center or  
30 prerelease program for a period not to exceed 1 year;

(g) chemical treatment of sex offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(h) any combination of subsections (2) through (3)(g).

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of court-appointed counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(o) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(n).

(5) In addition to any penalties imposed pursuant to subsection (1), if the sentencing judge finds

1 that the victim of the offense has sustained a pecuniary loss, the sentencing judge shall require payment  
2 of full restitution to the victim as provided in 46-18-241 through 46-18-249.

3 (6) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in  
4 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter  
5 23, part 5.

6 (7) If a felony sentence includes probation, the department of corrections shall supervise the  
7 offender unless the court specifies otherwise."

8

9 ~~Section 6. Section 46-18-222, MCA, is amended to read:~~

10 ~~"46-18-222. Exceptions to mandatory minimum sentences and restrictions on deferred imposition~~  
11 ~~and suspended execution of sentence. Mandatory minimum sentences prescribed by the laws of this state,~~  
12 ~~mandatory life sentences prescribed by 46-18-219, and the restrictions on deferred imposition and~~  
13 ~~suspended execution of sentence prescribed by 46-18-201(1)(b), 46-18-205, 46-18-221(3), 46-18-224,~~  
14 ~~and 46-18-502(3) do not apply if:~~

15 ~~—— (1) the offender was less than 18 years of age at the time of the commission of the offense for~~  
16 ~~which the offender is to be sentenced;~~

17 ~~—— (2) the offender's mental capacity, at the time of the commission of the offense for which the~~  
18 ~~offender is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense~~  
19 ~~to the prosecution. However, a voluntarily induced intoxicated or drugged condition may not be considered~~  
20 ~~an impairment for the purposes of this subsection.~~

21 ~~—— (3) the offender, at the time of the commission of the offense for which the offender is to be~~  
22 ~~sentenced, was acting under unusual and substantial duress, although not such duress as would constitute~~  
23 ~~a defense to the prosecution;~~

24 ~~—— (4) the offender was an accomplice, the conduct constituting the offense was principally the~~  
25 ~~conduct of another, and the offender's participation was relatively minor;~~

26 ~~—— (5) in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual~~  
27 ~~element of the crime, no serious bodily injury was inflicted on the victim unless a weapon was used in the~~  
28 ~~commission of the offense; or~~

29 ~~—— (6) the offense was committed under 45-5-502(3) and the judge determines that treatment of the~~  
30 ~~offender in a local community affords a better opportunity for rehabilitation of the offender and for the~~

~~ultimate protection of the victim and society, in which case the judge shall include in its judgment a statement of the reasons for its determination; or~~  
~~—— (7) the offense is a nonviolent offense as defined in [section 1] and it is found under [section 2] that addiction of the person to alcohol, drugs, or gambling was a factor in the commission of the offense."~~

**SECTION 4. SECTION 46-18-225, MCA, IS AMENDED TO READ:**

**"46-18-225. Sentencing of nonviolent felony offenders -- criteria -- alternatives to be considered -- court to state reasons for imprisonment.** (1) In sentencing a nonviolent felony offender, the sentencing judge shall first consider alternatives to imprisonment of the offender in a state prison, including placement of the offender in a community corrections facility or program, a prerelease center, or a prerelease program. In considering alternatives to imprisonment, the sentencing judge shall examine the sentencing criteria contained in subsection (2).

(2) Prior to sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term of imprisonment in a state prison, the sentencing judge shall take into account whether:

(a) the interests of justice and the needs of public safety truly require the level of security provided by imprisonment of the offender in a state prison;

(b) the needs of the offender can be better served in the community or in a facility or program other than a state prison;

(c) there are substantial grounds tending to excuse or justify the offense, though failing to establish a defense;

(d) the offender acted under strong provocation;

(e) the offender has made restitution or will make restitution to the victim of the offender's criminal conduct;

(f) the offender has no prior history of conviction for a criminal act or, if the offender has a prior history of conviction for a criminal act, the offender has led a law-abiding life for a substantial period of time before the commission of the present crime;

(g) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

(h) the character and attitude of the offender indicate that the offender is likely to commit another crime;

(i) if it is the offender's first or second felony offense, dependency upon drugs, alcohol, or



1 gambling was a factor in the commission of the offense;

2 ~~(j)~~(i) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

3 ~~(k)~~(k) imprisonment of the offender would create an excessive hardship on the offender or the  
4 offender's family.

5 (3) Prior to sentencing a nonviolent offender for a first or second felony offense, the judge shall  
6 determine whether dependence on drugs, alcohol, or gambling was a factor in the commission of the  
7 offense. If the judge determines that dependence was a factor, the judge shall, before imposing sentence,  
8 order the offender to complete and if able to do so pay for a treatment assessment that focuses on  
9 treatment alternatives. The sentence must provide that the offender shall comply with all recommendations  
10 contained in the treatment assessment and shall pay for the treatment if able to do so. The judge shall  
11 approve of the recommended treatment and recommended treatment provider.

12 ~~(3)~~(4) If the judge sentences the offender to a state prison, the judge shall state the reasons why  
13 the judge did not select an alternative to imprisonment, based on the criteria contained in subsection (2)."

14

15 **Section 5.** Section 53-21-603, MCA, is amended to read:

16 **"53-21-603. Chemical and gambling dependency treatment center.** (1) There is a Montana  
17 chemical and gambling dependency treatment center. The Montana chemical and gambling dependency  
18 treatment center is the approved public treatment facility as defined in 53-24-103.

19 (2) The Montana chemical and gambling dependency treatment center shall provide detoxification,  
20 evaluation, treatment, referral, and rehabilitation to persons in Montana who are referred for inpatient  
21 treatment of alcoholism or other chemical dependency or of gambling dependency."

22

23 **Section 6.** Section 53-24-101, MCA, is amended to read:

24 **"53-24-101. Legislative purpose.** It is the purpose of this chapter and the policy of this state to  
25 recognize chemical ~~dependency~~ and gambling dependencies as ~~a problem~~ problems affecting the health,  
26 safety, morals, economy, and general welfare of this state; to recognize chemical ~~dependency~~ and  
27 gambling dependencies as ~~a problem~~ problems subject to treatment; and to recognize ~~the sufferer~~ sufferers  
28 of chemical ~~dependency~~ and gambling dependencies as worthy of treatment and rehabilitation. It is the  
29 intent of this chapter to establish means whereby the appropriate resources of this state may be focused  
30 fully and effectively upon the ~~problem~~ problems of chemical ~~dependency~~ and gambling dependencies and

1 utilized in implementing programs for the control and treatment of ~~this problem~~ the problems."

2

3 **Section 7.** Section 53-24-103, MCA, is amended to read:

4 **"53-24-103. Definitions.** For purposes of this chapter, the following definitions apply:

5 (1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by  
6 repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal  
7 relationships, or economic function of the individual or public health, welfare, or safety.

8 (2) "Approved private treatment facility" means a private agency that has as its function the  
9 treatment, rehabilitation, and prevention of chemical or gambling dependency, that meets the standards  
10 prescribed in 53-24-208(1), and that is approved under 53-24-208.

11 (3) "Approved public treatment facility" means:

12 (a) a treatment agency operating under the direction and control of the department as a state  
13 agency and approved under 53-24-208; or

14 (b) a treatment agency operating under the direction and control of a local government and  
15 approved under 53-24-208.

16 (4) "Chemical dependency" means the use of any chemical substance, legal or illegal, that creates  
17 behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism,  
18 drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of  
19 an individual or the public health, welfare, or safety.

20 (5) "Commission on accreditation of rehabilitation facilities" means the organization nationally  
21 recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation  
22 status to a rehabilitation facility that it finds meets its standards and requirements.

23 (6) "Department" means the department of public health and human services provided for in  
24 2-15-2201.

25 (7) "Family member" is the spouse, mother, father, child, or member of the household of a  
26 ~~chemically dependent person~~ with a chemical or gambling dependency whose life has been affected by  
27 the actions of the ~~chemically dependent person~~ with a chemical or gambling dependency and who may  
28 require treatment.

29 (8) "Gambling dependency" means a chronic illness or disorder of behavior characterized by  
30 repeated gambling to the extent that it endangers the health, interpersonal relationships, or economic

1 function of the individual or public health, welfare, or safety.

2 ~~(8)(9)~~ "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is  
3 unconscious or has judgment otherwise so impaired that the person is incapable of realizing and making  
4 a rational decision with respect to a need for treatment.

5 ~~(9)(10)~~ "Incompetent person" means a person who has been adjudged incompetent by the district  
6 court.

7 ~~(10)(11)~~ "Intoxicated person" means a person whose mental or physical functioning is substantially  
8 impaired as a result of the use of alcohol.

9 ~~(11)(12)~~ "Prevention" has meaning on four levels; these are:

10 (a) education to provide information to the school children and general public relating to chemical  
11 and gambling dependency treatment and rehabilitative services and to reduce the consequences of life  
12 experiences acquired by contact with a ~~chemically dependent~~ person with a chemical or gambling  
13 dependency;

14 (b) early detection and recovery from the illness before lasting emotional or physical damage, or  
15 both, have occurred;

16 (c) if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full  
17 disability has been reached;

18 (d) the provision of facility requirements to meet division program standards and improve public  
19 accessibility for services.

20 ~~(12)(13)~~ "Rehabilitation facility" means a facility that is operated for the primary purpose of  
21 assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and  
22 services, psychological and social services, or vocational evaluation and training or any combination of  
23 these services and in which the major portion of the services is furnished within the facility.

24 ~~(13)(14)~~ "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient  
25 services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service  
26 care, vocational rehabilitation, and career counseling, which may be extended to ~~chemically dependent~~  
27 persons with a chemical or gambling dependency, intoxicated persons, and family members."

28

29 **Section 8.** Section 53-24-104, MCA, is amended to read:

30 **"53-24-104. Deposit of funds from federal or private sources with state treasurer.** Funds available

1 to the department from federal or private sources for use in chemical or gambling dependency prevention,  
2 treatment, and control programs ~~shall~~ must be deposited with the state treasurer to the account of the  
3 department in the federal special revenue fund or the state special revenue fund."

4  
5 **Section 9.** Section 53-24-204, MCA, is amended to read:

6 **"53-24-204. Powers and duties of department.** (1) To carry out this chapter, the department may:

7 (a) accept gifts, grants, and donations of money and property from public and private sources;

8 (b) enter into contracts;

9 (c) acquire and dispose of property.

10 (2) The department shall:

11 (a) approve treatment facilities as provided for in 53-24-208;

12 (b) prepare a comprehensive long-term state chemical and gambling dependency plan every 4  
13 years and update this plan each biennium;

14 (c) provide for and conduct statewide service system evaluations;

15 (d) distribute state and federal funds to the counties for approved treatment programs in  
16 accordance with the provisions of 53-24-206;

17 (e) plan in conjunction with approved programs and provide for training of program personnel  
18 delivering services to persons with a chemical or gambling dependency;

19 (f) establish criteria to be used for the development of new programs;

20 (g) encourage planning for the greatest utilization of funds by discouraging duplication of services,  
21 encouraging efficiency of services through existing programs, and encouraging rural counties to form  
22 multicounty districts or contract with urban programs for services;

23 (h) cooperate with the board of pardons and parole in establishing and conducting programs to  
24 provide treatment for intoxicated persons and persons with a chemical or gambling dependency in or on  
25 parole from penal institutions;

26 (i) establish standards for chemical and gambling dependency educational courses provided by  
27 state-approved treatment programs and approve or disapprove the courses; and

28 (j) assist all interested public agencies and private organizations in developing education and  
29 prevention programs for chemical and gambling dependency."

1           **Section 10.** Section 53-24-206, MCA, is amended to read:

2           **"53-24-206. Administration of financial assistance.** (1) The department may apply for and receive  
3 grants, allotments, or allocations of funds or other assistance for purposes pertaining to the problems of  
4 chemical and gambling dependency or related social problems under laws and rules of the United States,  
5 any other state, or any private organization.

6           (2) The department may cooperate with any other government agency or private organization in  
7 programs on chemical and gambling dependency or related social problems. In carrying out cooperative  
8 programs, the department may make grants of financial assistance to government agencies and private  
9 organizations under terms and conditions agreed upon.

10          (3) (a) In administering proceeds derived from the liquor license tax, the beer license tax, or the  
11 wine tax, the department shall distribute those funds appropriated by the legislature. Money that is  
12 appropriated for distribution to approved private, nonprofit or public programs on a discretionary basis ~~shall~~  
13 must be distributed to those programs that can demonstrate that:

14           (i) the program is achieving the goals and objectives mutually agreed upon by the program and  
15 the department; and

16           (ii) the receipt of additional funds would be justified.

17          (b) The remainder of the proceeds ~~shall~~ must be distributed to the counties for use by approved  
18 private, nonprofit or public programs. The distribution of these proceeds is statutorily appropriated as  
19 provided in 17-7-502 and must be distributed in the following manner:

20           (i) Eighty-five percent ~~shall~~ must be allocated according to the proportion of each county's  
21 population to the state's population according to the most recent United States census.

22           (ii) Fifteen percent ~~shall~~ must be allocated according to the proportion of the county's land area  
23 to the state's land area.

24          (c) Money distributed under subsection (3) may only be used for purposes pertaining to the  
25 problems of alcoholism."

26  
27           **Section 11.** Section 53-24-207, MCA, is amended to read:

28           **"53-24-207. Comprehensive program for treatment.** (1) The department shall establish a  
29 comprehensive and coordinated program for the treatment of ~~chemically dependent~~ persons with a  
30 chemical or gambling dependency, intoxicated persons, and family members.

(2) The program must include:

(a) emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;

(b) inpatient treatment;

(c) intermediate treatment;

(d) outpatient treatment; and

(e) followup services.

(3) The department shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under 53-24-301 through 53-24-303.

(4) All appropriate public and private resources must be coordinated with and used in the program if possible.

(5) The department shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities."

**Section 12.** Section 53-24-209, MCA, is amended to read:

**"53-24-209. Rules for acceptance for treatment.** The department shall adopt rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of ~~chemically dependent~~ persons with a chemical or gambling dependency, intoxicated persons, and family members. In adopting the rules, the department must be guided by the following standards:

(1) If possible, a patient must be treated on a voluntary rather than an involuntary basis.

(2) A patient must be initially assigned or transferred to outpatient treatment unless found to require inpatient treatment.

(3) An individualized treatment plan must be prepared and maintained on a current basis for each person.

(4) Provision must be made for a continuum of coordinated treatment services so that a person who leaves a facility or a form of treatment will have available and use other appropriate treatment."

**Section 13.** Section 53-24-211, MCA, is amended to read:

**"53-24-211. County plan to be submitted to department.** (1) Every 4 years each county shall

1 submit to the department a comprehensive countywide plan for the treatment, rehabilitation, and  
2 prevention of chemical and gambling dependency. Each county shall also submit annual plan updates that  
3 include, at a minimum, allocation to approved programs of revenues generated by taxation on alcoholic  
4 beverages.

5 (2) The plan must have been approved by the board of county commissioners and must contain  
6 information regarding existing private and public chemical and gambling dependency programs within the  
7 county. The plan must also contain information regarding the current and future needs of the county for  
8 the treatment, rehabilitation, and prevention of chemical and gambling dependency.

9 (3) The department shall approve or disapprove the countywide plan and annual updates. If the  
10 department disapproves a plan or update, the county may submit another plan or update to the  
11 department. In distributing funds to approved programs in a county, the department shall give  
12 consideration to the county plan.

13 (4) The department may adopt rules regarding the submission, submission dates, updates,  
14 approval, and disapproval of plans and the use of plans by the department in determining the needs of the  
15 county for the treatment, rehabilitation, and prevention of chemical and gambling dependency. ~~No money~~  
16 Money may not be distributed to a county by the department for the treatment, rehabilitation, and  
17 prevention of chemical and gambling dependency if the county does not comply with these rules."

18

19 **Section 14.** Section 53-24-301, MCA, is amended to read:

20 **"53-24-301. Treatment of ~~the chemically dependent~~ persons with chemical or gambling**  
21 **dependency.** (1) An applicant for voluntary admission or court-referred admission to an approved public  
22 treatment facility shall obtain confirmation from a certified chemical or gambling dependency counselor  
23 that the applicant ~~is chemically dependent~~ has a chemical or gambling dependency and ~~appropriate for that~~  
24 inpatient, freestanding care as described in the administrative rules is appropriate. The department shall  
25 adopt rules to establish policies and procedures governing assessment, patient placement, confirmation,  
26 and admission to an approved public treatment facility. If the proposed patient is a minor or an  
27 incompetent person, the proposed patient, a parent, legal guardian, or other legal representative may make  
28 the application.

29 (2) Subject to rules adopted by the department, the administrator of an approved public treatment  
30 facility may determine who is admitted for treatment. If a person is refused admission to an approved

1 public treatment facility, the administrator, subject to departmental rules, shall refer the person to an  
2 approved private treatment facility for treatment if possible and appropriate.

3 (3) If a patient receiving inpatient care leaves an approved public treatment facility, the patient  
4 must be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the  
5 administrator of the treatment facility that the patient ~~is chemically dependent~~ has a chemical or gambling  
6 dependency and requires help, the department shall arrange for assistance in obtaining supportive services  
7 and residential facilities.

8 (4) If a patient leaves an approved public treatment facility, with or against the advice of the  
9 administrator of the facility, the department shall make reasonable provisions for the patient's  
10 transportation to another facility or to the patient's home. If the patient has no home, the patient must be  
11 assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge  
12 from an inpatient facility must be made by a parent, legal guardian, or other legal representative or by the  
13 minor or incompetent, if the minor or incompetent person was the original applicant."

14

15 **Section 15.** Section 53-24-306, MCA, is amended to read:

16 **"53-24-306. Records of ~~chemically dependent~~ persons with a chemical or gambling dependency,**  
17 **intoxicated persons, and family members.** (1) The registration and other records of treatment facilities ~~shall~~  
18 must remain confidential and are privileged to the patient.

19 (2) Notwithstanding subsection (1), the department may make available in accordance with Title  
20 50, chapter 16, part 5, information from patients' records for purposes of research into the causes and  
21 treatment of chemical and gambling dependency. Information under this subsection ~~shall~~ may not be  
22 published in a way that discloses patients' names or other identifying information."

23

24 **NEW SECTION. SECTION 16. APPROPRIATION. THERE IS APPROPRIATED \$100,000 TO THE DEPARTMENT**  
25 **OF CORRECTIONS FROM THE GENERAL FUND TO IMPLEMENT [SECTION 4].**

26

27 **NEW SECTION. Section 17. Codification instruction.** ~~{Sections 1 and 2} are [SECTION 1]~~ is intended  
28 to be codified as an integral part of Title 46, chapter 18, part 2, and the provisions of Title 46 apply to  
29 ~~{sections 1 and 2}~~ [SECTION 1].

30

- END -